



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

November 20, 2009

CERTIFIED MAIL #70080150000315420406

Albert R. Axe, Jr.
Winstead PC
401 Congress Avenue
Suite 1200
Austin, TX 78701

RE: San Jacinto River Waste Pits Superfund Site near Pasadena, Harris County, Texas

Dear Mr. Axe:

The Environmental Protection Agency (EPA) has received and reviewed McGinnes Industrial Maintenance Corporation (MIMC) and the International Paper Company's (IPC) (collectively referred to as Potentially Responsible Party [PRP] Group) proposal for cleanup at the San Jacinto River Waste Pits Superfund Site (Site) submitted on September 18, 2009. The EPA appreciates your efforts to work toward our mutual goal of quickly cleaning up the Site including stabilizing the Site so that the potential for ongoing release of dioxin-contaminated material from the Site's three waste ponds are addressed immediately.

Upon review of your stabilization proposal, EPA is pleased by the PRP Group's unconditional statement that MIMC and IPC are willing to perform and pay for a non-time critical removal action at the Site source area consisting of three waste ponds under an Administrative Order on Consent (AOC). Non-time critical removals are removals done where at least six months of planning activities take place before any on-site activities occur. To help meet our mutual goal of cleaning up the Site as quickly as possible and speed up stabilization of the source area, the EPA is proposing that the site stabilization be conducted as a time-critical action requiring less than six months of planning before on-site activities take occur. To that end, EPA is enclosing a draft time-critical removal AOC.

I am also enclosing a compact disc containing all of EPA's releasable documents. Upon reading the PRP Group's proposal, we found numerous factual errors regarding site activities relating to dredging activities conducted in 1997-1998. The PRP Group alleges the dredging caused the removal of the levees and waste material on the Northwest corner of the waste ponds and the erosion of the levees on the Northeast side of the Site. Data and documentation that EPA has collected regarding the Site indicate that the waste ponds were having integrity issues in 1965 and 1966. Aerial photos indicate that as early as in the 1970s the Site, including its waste ponds, was being inundated by the San Jacinto River. Additionally, sampling conducted in 1994 indicates that high levels of dioxin and dibenzo furans were detected in the San Jacinto River surrounding the Site and within a mile downstream of the Site. I encourage you to review EPA's

documents in order to have a better appreciation of the conditions at the Site and thus help your future work at the Site.

The EPA is eager to work the PRP Group to stabilize the Site as soon as possible. The EPA is proposing to meet to discuss the details of the site stabilization removal in early December. Please contact me at (214) 665-2157 to set a meeting date.

Sincerely,

A handwritten signature in cursive script that reads "Barbara A. Nann".

Barbara A. Nann
Assistant Regional Counsel

Enclosures (2)